

been substituted in part for cream, which it purported to be; and in that a foreign fat had been added thereto or mixed therewith so as to increase its bulk or weight, reduce its quality, or make it appear better or of greater value than it was.

On May 6, 1942, the defendant having pleaded not guilty, the case was tried to a jury which returned a verdict of guilty and the court imposed a fine of \$50.

**3049. Adulteration of evaporated milk. U. S. v. 500 Cases of Evaporated Milk. Default decree of condemnation and destruction. (F. D. C. No. 6555. Sample No. 72131-E.)**

This product was contaminated with filth.

On December 23, 1941, the United States attorney for the Southern District of California filed a libel against 500 cases each containing 48 14½-ounce cans of evaporated milk at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about November 28, 1941, by Pet Milk Sales Corporation from Richmond, Utah, to itself at Los Angeles, Calif.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance; and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. The article was labeled in part: (Cans) "Pet Milk \* \* \* Irradiated. Evaporated Vitamin D Content Increased \* \* \* Distributed By Pet Milk Sales Corp."

On February 13, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### EGGS

**3050. Adulteration of shell eggs. U. S. v. Lorin Clay May (Mountain Valley Produce). Plea of guilty. Fine, \$50. (F. D. C. No. 2873. Sample No. 13652-E.)**

On November 9, 1940, the United States attorney for the District of Utah filed an information against Lorin Clay May, trading as Mountain Valley Produce at Salt Lake City, Utah, alleging shipment on or about April 10, 1940, from the State of Utah into the State of Washington of a quantity of eggs that were adulterated in that they consisted in whole or in part of a decomposed substance, or were otherwise unfit for food.

On November 23, 1940, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50.

**3051. Alleged adulteration of shell eggs. U. S. v. Isadore B. Rutstein, alias Israel B. Rutstein, alias Ben Rutstein, alias Benjamin Rutstein, alias Ben Ruthstein. Plea of not guilty. Case tried to the court and jury. Directed verdict of not guilty. (F. D. C. No. 2126. Sample No. 67480-D.)**

This case was instituted on the charge that the product was filthy and decomposed.

On September 21, 1940, the United States attorney for the District of New Jersey filed an information against Isadore B. Rutstein, alias Israel B. Rutstein, alias Ben Rutstein, alias Benjamin Rutstein, alias Ben Ruthstein of Paterson, N. J., alleging shipment on or about October 6, 1939, from the State of New Jersey into the State of New York of a quantity of eggs that were alleged to be adulterated in that they consisted in whole and in part of a filthy, putrid, and decomposed substance.

On November 20, 1940, a plea of not guilty having been entered on behalf of the defendant, the court after conclusion of Government testimony, instructed the jury to return a verdict of not guilty as follows:

Watson, *Judge*. "The court had under consideration during the recess a motion made by counsel for the defendant. The court is satisfied that under the evidence the defendant in this case must be found to be not guilty for the reason that this court hasn't jurisdiction. In my opinion, the duty of the Government was to show that this man was transporting in interstate commerce the eggs which were bad. This, in my opinion, the Government has failed to show. The line, as I understand it, between New York and New Jersey, is not on the New York side, where the defendant was seen in the truck, we will say, according to the evidence, if that is found to be the fact by the jury. So that even though the jury should find that this defendant was on that truck on the ferry when it landed on the New York side, there is nothing to show that he was driving the truck when it was in the State of New Jersey or any State other than the State of New York.

"Members of the jury: Undoubtedly you have heard what the court has said with reference to the motion made not in your presence. And it becomes the duty of the court to ask you to render a verdict of not guilty."

Nos. 3052 to 3055 report the seizure and disposition of frozen eggs that were in whole or in part decomposed.

**3052. Adulteration of frozen eggs. U. S. v. 10 Cans, 22 Cans, and 34 Cans of Frozen Eggs. Default decrees of condemnation and destruction.** (F. D. C. Nos. 6868, 6873, 7053. Sample Nos. 90450-E, 90801-E, 90802-E.)

On February 16 and 17 and March 18, 1942, the United States attorneys for the District of Massachusetts and the District of Rhode Island filed libels against 10 30-pound cans of frozen eggs at Springfield, Mass., and 56 30-pound cans of frozen eggs at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about January 23, February 2, and March 6, 1942, by Sam Greenbaum from Newark, N. J.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On March 23 and April 1 and 22, 1942, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

**3053. Adulteration of frozen whole eggs. U. S. v. 75 Cans of Frozen Whole Eggs. Default decree of condemnation and destruction.** (F. D. C. No. 6655. Sample No. 84216-E.)

On January 6, 1942, the United States attorney for the District of New Jersey filed a libel against 75 cans of frozen whole eggs at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about December 16, 1941, by Marshall Kirby & Co., from Brooklyn, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On May 9, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**3054. Adulteration of frozen eggs. U. S. v. 1,143 Cans of Frozen Whole Eggs and 202 Cans of Frozen Egg Meats. Consent decree of condemnation. Product ordered released under bond to be reconditioned.** (F. D. C. Nos. 6134, 6135. Sample Nos. 61831-E to 61833-E, incl.)

Examination of this product showed the presence of decomposed eggs.

On November 1, 1941, the United States attorney for the Eastern District of Washington filed a libel against 1,345 30-pound cans of frozen eggs at Spokane, Wash., alleging that the articles had been shipped in interstate commerce, the frozen whole eggs having been shipped by Northwest Poultry & Dairy Products Co. from Portland, Oreg., and the frozen egg meats having been shipped by Idaho Egg Producers from Caldwell, Idaho, within the period from on or about June 23 to on or about October 10, 1941; and charging that they were adulterated in that they consisted wholly or in part of decomposed substances.

On December 16, 1941, Northwest Poultry & Dairy Products Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be reconditioned under the supervision of the Food and Drug Administration. The unfit portion was segregated and destroyed.

**3055. Adulteration of frozen eggs. U. S. v. 152 Cans of Frozen Eggs. Consent decree of condemnation. Product ordered released under bond for segregation and salvage.** (F. D. C. 6366. Sample No. 84201-E.)

Examination of this product showed the presence of decomposed eggs.

On December 9, 1941, the United States attorney for the Southern District of New York filed a libel against 152 cans of frozen eggs at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about November 19, 1941, by L. Rudolf & Co. from Jersey City, N. J.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Whites and Yolk Mixed \* \* \* Packed by Iowa Egg Company, Des Moines, Iowa."

On January 15, 1942, Samuel Dunkel & Co., Inc., New York, N. Y., claimant having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that the good portion be separated from the bad under the supervision of the Food and Drug Administration and that the latter be destroyed or denatured.